CITY OF OREM
SPECIAL MEETING
Senior Friendship Center
93 North 400 East, Orem, UT 84058
June 19, 2014
6:00 p.m.

This meeting was for discussion purposes only. No action was taken.

MODERATOR	Lorie Fowlke
OREM ELECTED OFFICIALS	Mayor Richard F. Brunst, Jr. and Councilmembers Hans Andersen, Margaret Black, Mark E. Seastrand, David Spencer, and Brent Sumner
EXCUSED	Tom Macdonald
OREM STAFF	Jamie Davidson, City Manager; Brenn Bybee, Assistant City Manager; Steven Downs, Assistant to the City Manager; Scott Gurney, Interim Public Safety Director; Karl Hirst, Recreation Director; Richard Manning, Administrative Services Director; Jason Bench, Planning Division Manager; and Taraleigh Gray, Deputy City Recorder
Invocation	Karen McCandless
Pledge	Mel Burr

Welcome and Introductions

Lori Fowlke, moderator, welcomed those in attendance at the meeting, and introduced the Council Members. She said they were supposed to go until 8:00 p.m. She noted that Councilmember Black had not arrived yet, and Councilmember Macdonald was excused.

Mrs. Fowlke reviewed the evening's program before turning the time over to Duncan Ramage and Mike Lee from Macquarie Capital.

Mr. Ramage's comments touched on the following:

- He was not talking about UTOPIA, but rather something new.
- He agreed that UTOPIA had not gone well, but Macquarie was there to help find a solution.
- He gave background on Macquarie Capital and its partners and explained they are the biggest infrastructure investor in the world, with partners such as Fujitsu, Black & Veatch, Corning, and Alcatel-Lucent.
- The proposal was for a public asset, executed privately. Their proposal would build out the fiber network to all residents and all businesses throughout all the cities.

- Four UTOPIA cities had already agreed to move forward, two had declined, and five had not yet voted.
- The network would remain open access.
- There were currently eighteen internet service providers (ISPs) that used the network to deliver services, with 11,000 people currently on the network.
- ISPs could use the network with no upfront costs.
- Everyone connected would have the right to a basic service, and residents would have a choice of ISP.
- Basic service would be 3 Mbps upload, 3 Mbps download, with a data cap of 20 GB per month. It was at a level which made sense for the utility fee but where some people might want to buy upgraded service from the ISPs, including TV, voice service, or faster internet service.
- They expected more ISPs to join the network.
- All the risks of the project would be transferred to Macquarie, including delays or over-budget costs. Should Macquarie not keep the network up to standards, there would be deductions.
- During the full thirty-year agreement, the cities would maintain ownership of the assets.
- From day one, there would be no more operating costs for the cities and at least 50 percent of the revenues generated from upgrades would go to the cities to use as they liked
- There would be an $18-$20 utility fee per house—half that for apartments and double for businesses. That fee was guaranteed not to rise except with inflation.
- The four parties involved would be the (1) cities, (2) PPP (Macquarie), (3) ISPs, and (4) citizens.
    - Citizens would pay the utility fees to the cities
    - Cities would pool all the utility fees together and pay that to the PPP
    - PPP would take those availability payments and use it for the design/build, operating costs, refreshing equipment, payments to lenders, and a small return.
    - PPP would provide services to the ISPs
    - ISPs would then provide services to the citizens.
- The cities could choose how to make the availability payment, including providing some relief to poorer citizens.
- There would be a wholesaler who would be in charge of the ISPs, including collecting premium revenues to be distributed to the cities at 50 percent.
- People did not like the utility fee but, when seen in context, it was necessary because of the (1) amount of UTOPIA debt, and (2) need to build new infrastructure.
- There were not a lot of options, and the best way to keep the price low and to deliver the infrastructure efficiently for everyone would by taking care of everything at once.
- The mailers that were being sent by Utah Taxpayers Association (UTA) were paid for by CenturyLink.
- How would UTA and CenturyLink suggest fixing the system that was in dire need of a refresh and would cost up to $40 million without coming back to cities for more money?
- If the cities were to allow UTOPIA to go dark, there would be 11,000 subscribers without service, several hundred millions of dollars of valuable asset would be wasted, and the cities would probably face several lawsuits.

- The cities had already tried to sell the system, and the only other offer on the table was from First Digital, who would not let anyone see that offer, while Macquarie's offer has been totally open book.
- The PPP would actually save money for nearly every type of customer, whether they joined the network or not.
- The PPP proposal would allow choice because the system would be open access for any ISPs. If a customer did not like the service they were getting, they could change that day to a new provider.
- The proposal would allow the cities to pay down the debt, reduce utility fees, and still own the asset.
- The proposal would bring businesses to the cities.
- More businesses needed connectivity, better than DSL or cable.
- The proposal would also make internet connections more accessible for disadvantaged children to do their homework, closing what was known as the "digital divide."
- Not all internet traffic was created equal, so ISPs would prioritize their own content and deprioritize other content that they didn't like with closed systems.
- Comcast and CenturyLink have been free to charge what they wanted, to provide poor levels of service, to be the most hated companies in America.
- Comcast has raised its prices by 9 percent in certain UTOPIA cities. People do not have real choice, and they pay too much for too little.
- The suggestion that Macquarie was proposing a monopoly was ludicrous, as the PPP was an open platform for anyone to compete on. Comcast was pushing a mega-merger which would give them 45 million subscribers and deny choice even more. Comcast is the second biggest lobbyist in Washington.
- The proposal was not a foreign takeover because Macquarie had a lot of assets in the U.S. and many of their investors were American.
- They would use local contractors, so a lot of the money used to build the system would stay in the United States. New jobs would be created. Many of the ISPs were local.
- Many shareholders in Comcast and CenturyLink were also not in the United States
- With Comcast, nothing would go back to the cities.
- When Google bought out iProvo for a dollar, they left Provo with the debt, and none of the money to Google went back to the city.
- An open access network would give greater choice of providers, better products, price reductions, network development, and product development.
- In Utah, 92 percent of homes had access to the Internet at the time of the presentation, so with 27,500 homes in Orem, that 92 percent would mean that 25,300 of them had at least internet access; 26,000 had internet or home phone, with 2.5 percent having phone service only; and 1,500 had neither service.
- For the proposed $20 utility fee, a customer would get the Internet. For another $0 to $10, they would get a phone on the service. Therefore, for $20 - $30 a customer could get a phone and the Internet.
- If all the 27,500 households in Orem received the Internet and phone service on the Macquarie proposal, it would cost $8 million. But if everyone used CenturyLink instead, CenturyLink would be getting $20 million, which was more than twice as much. That would equal a savings of $12 million for the taxpayers in Orem.
- If a customer were determined only to use the land line and not the Internet, it would cost them $30. The same service with CenturyLink would be $40.

Resident question: Would the $20 fee go to the ISP?

Mr. Ramage said it did not. The $20 went to pay for the network and the ISPs would provide the service for free. The $20 would include the installation, basic service of 3 Mbps up and 3 Mbps down with a 20 GB data cap per month. Upgrades would go to the ISPs, which were the actual service providers even on the basic service. They would do it for free because they would get to market the premium services to the customers. A customer, who was a serious gamer, might pay for unlimited calling and premium TV service. With the other cable providers, he might pay an introductory price of $200 per month which would rise to $250 per month after one year. However, that customer could get the same kind of service but with 10 times the download and 50 times the upload speeds from the UTOPIA network for a total of $209 per month.

Resident question: How did service compare with Google?

Mr. Ramage said Google's plan did not include phone service as part of the fee. He did not have exact figures but it would be $70 for the basic service. They did not have a good television package. Google was not coming to Orem. Mr. Ramage addressed the question of whether or not 20 GB would be enough, saying that after the 20 GB cap was used up, the basic services would not stop, the speed would just slow. If customers were using more than the 20 GB they would want to upgrade. Amazon, Volkswagen, and Claris networks had all chosen to set up businesses in Chattanooga, Tennessee. He quoted Claris as saying they chose Chattanooga just because the fiber network would promote growth, jobs, and businesses. Mr. Ramage said the United Nations had called broadband a basic right.

Mrs. Fowlke introduced Laura Lewis to explain the money end of things. She told the audience that the figures Ms. Lewis had were very important to understanding the options available.

Ms. Lewis said she would cut to the bottom line rather than give too many details. Since the Macquarie proposal of $20 was based on the number of addresses they would build out to, she decided to use that same number of addresses, so about 30,000 in every one of the alternatives available, to come up with a dollar-per-address. That figure was based upon the system being built out.

Ms. Lewis reviewed the following options:

- "Keep Muddling Along" or "keep doing what you are doing now." Ms. Lewis compared the costs in FY2015 to projected costs in FY2040. The UTOPIA debt would increase a fraction below 2 percent per year. The cost to residents for that would $12 a month in FY2015 and $1,969 for FY 2040.
- Sell the entire System. If the cities were to sell the entire system the debt would go down, but the cities would have to keep a significant amount of debt. From an accounting perspective, the City was in a better position not to sell.
- "Go Dark." It would leave the debt pieces in place, but the cities would no longer have any UIA revenues to pay for it. The cost to residents would be a shade under $10 of debt in FY2015 and just a shade under $15 in FY2040. It would be less than the "Keep Muddling Along" scenario because there would be no operating costs and no refresh costs. However, there would be a fairly large possibility of litigation, or the need to pay people to avoid litigation.

- Macquarie Public Private Proposition. The scenario would include the existing debt and the $20 per household proposed fee. The sales revenues from a projected 30 percent premium take rate—not uncommon in areas that already had such systems--would come back to UTOPIA to help pay off the debt or to offset the utility fee.

Resident question: What was a transport fee?

Ms. Lewis explained that the transport fee was a portion of the bill that was the cost of the electronics needed to shove that data through faster and to give the wanted bandwidth.

Mr. Lee added that the transport fee was the wholesale fee.

An unidentified person said that the transport fee was what was paid when the ISPs upgraded their service. Macquarie would receive a transport fee, but the City would get over 50 percent of it back.

Mr. Lee said that an easy way to think of it was as a lease to the ISP. He said customers would not see the transport fee on their bills.

Ms. Lewis said the Macquarie proposal would cost more per household than the other proposals, but it would include the ability for those numbers to come down as more people added additional services and used more data over time.

Resident question: Was the $20 fee tied to inflation?

Ms. Lewis said the $20 would be tied to the CPI but would be negotiated further through Milestone 2. The cost would be fixed to inflation.

Mrs. Fowlke then opened the meeting for questions to the Macquarie representatives. She said they would first address the questions submitted through the Internet, then those written on site, and then questions from the audience.

Resident question: Who would ultimately be making the decision on the partnership? Would it be a public vote or decided by elected officials? What did 'moving to Milestone 2' mean?"

Mr. Davidson said the elected officials would make the decision. He said that Milestone 2 would include further evaluation of the proposal as submitted by Macquarie in a 110-page document that was available on orem.org. There was also an executive summary on the website. He said the purpose was to further discussions and to nail down and draw stronger conclusions on the technical aspects of the proposed deal, including the engineering required, the technology required, and the discussion as regards to the take rates and how those would be split amongst the City and representatives from Macquarie. He said a number of individuals who would want access to the network would want to upgrade, and those upgrade revenues would be allocated based on a formula that would be developed in Milestone 2.

Resident question: Clarify what responsibility of Macquarie/UTOPIA would be under the proposal and what responsibility would be left to the ISPs.

Mr. Ramage said Macquarie would be responsible for building the network out to all addresses; financing the whole build-out and continued operations; delivering the network to specified levels of performance over the 30-year period; maintaining the network, i.e. refreshing the equipment and replacing broken fiber; and basically doing everything that needs to be done to keep the network running, so that the ISPs could service the customers. The ISPs would be responsible for marketing, for facing the customer, and for dealing with their issues directly. One way to think of it was that the ISPs owned the customers and Macquarie owned the network. Macquarie would deliver the fiber to the outside of the home. The ISP would be responsible for bringing it from the exterior wall to the inside of the home. Macquarie would credit the ISPs $50 for installation so they would not need to charge the users for that installation.

> Resident question: Would this deal build out fiber directly to my house? Would it need to be a road close by? If so, what advantage was there to the resident, if any, to have the fiber network extended to his home?

Mr. Ramage explained that it would be fiber to the outside of the home, and how it would get inside the home was to be determined. It would not be to a node upstream and then copper to the house.

> Resident question: Many senior homeowners did not have internet and did not want to have it, but it looked like they would also be charged for services they would not be using. Was that correct?"

Mr. Ramage said that was correct, to the extent that the cities chose not to provide relief for certain individuals. He said that Macquarie had recommended that the cities find a way to address the poor and elderly so they would not be burdened with an additional expense that was truly unnecessary for them. Mr. Ramage restated that 92 percent of the residents of Orem already had the Internet and even more than that had a land line phone, so the vast majority would save money by using the network.

> Resident question: Why was there not an opt-out option? Could the model not work without it being mandatory for all residents?"

Mr. Ramage said it could not because a lot of people would probably opt out. He said it was one model. He said that he did not like utility fees, either, but that they could be used for services.

> Resident question: Why was there a 20 GB monthly cap on the basic service?

Mr. Ramage said the basic service was designed to provide good value in exchange for the utility fee but would also provide the right level where more robust users would want to upgrade, and provide business for the ISPs. There would also be revenues for the cities. The ISPs would provide the basic service for free but would not have to spend $300 million in infrastructure.

Mrs. Fowlke said that the presenters would be staying after the meeting if people had more questions.

Resident question: For those who need packages greater than the basic service, what packages would be available over the network and how did they compare to the current internet packages in Orem?

Mr. Ramage said, with 18 service providers on the network, there would be a lot of options. A number of providers already provided 100 Mbps of service and that, moving forward, they would have even more flexibility, so it would not be limited. There would be a plethora of options from whomever the customer would prefer for their service provider.

Resident question: What would happen if a property owner refused to allow the fiber optic cable to be installed on his or her property, to reach the house?

Mr. Davidson said that if some residents or homeowners chose not to have the infrastructure to the home, they could do that. However, a fee would still be assessed. He said the City of Orem had always adopted fees for service, and there was an expectation that the fees would be paid for that service. If a customer were to fail to make the payment then it would result in them having a balance on their account, and it could impact other services the City provided for them.

Mr. Lee observed that there had always been things residents paid for but did not use. He did not go to the park much, and he did not have kids in school, but he was happy to pay for those services. Those services were hidden in the tax bill, while the fee would be more direct and visible. Macquarie did not come with the idea of trying to gouge people for $20 a month over 30 years. They were just trying to find a solution. Broadband connectivity would be considered a utility.

Resident question: When was the soonest residents could expect to have fiber installed in their homes? How many months would some people be paying the monthly utility fee without having service, or would they not be billed until service reached their homes?"

Mr. Ramage said there would not be any fees until the earlier of when a customer was actually connected, or 6 months after a customer would have been able to connect. He said they were planning a fast build-out, but it had not yet been determined where the build-out would begin. They were planning on 200 installations per day.

Resident question: How would the deal affect existing UTOPIA customers? Could they expect bills to go up or down for the same service, or could they expect service level to go up with little or no increase in cost?

Mr. Ramage said that was one thing to be worked out in Milestone 2, but that the existing users should not be impacted. There were two types of existing users: those on UTOPIA and those on UIA. Those on UIA had a different financing structure that would be a little harder to deal with, but they were assuming those folks would stay exactly as they were. They would not get on the utility fee because they had a different arrangement with their lenders. UTOPIA customers currently paid $12 per month for the use of UTOPIA, and that went directly to UTOPIA. Obviously, that fee was not enough because UTOPIA could not even keep its lights on. He said those people would be changing that $12 for the new utility fee. The ISPs would be facing the same economics, so they should be pricing similarly to their current pricing. He said that the PPP would not be a price setter but purely the infrastructure provider, with the ISPs being the wholesale provider.

> Resident question: If the City decided not to go forward with the proposal but UTOPIA and Macquarie still formed the partnership, how would that affect Orem?

Mr. Davidson said that, under the proposal, the City of Orem would be a partner in the public-private partnership. The City would still need to service the 3,100 Orem UTOPIA customers. He said that the City would become a customer, rather than a partner, and Macquarie would be a service provider.

Mrs. Fowlke asked how it would affect the other cities.

Mr. Ramage said that there would come a point where the proposal would not work. He said it was important for Orem to participate in order to get any share of eventual profits.

Mr. Davidson noted there was a need to freshen the system's technology as well as service the existing customer. The proposed partnership would do both. He said if Orem were to pull away from that, the City would need to find the means elsewhere to refresh the system within the city limits and to develop a different strategy to serve the existing customer base.

Mr. Ramage said all of the numbers in the report were based on eleven participating cities. It would be necessary to recalibrate the utility fee and the Milestone 2 allocations. The fees could go up or down. He reiterated that, after the closing, only inflation would cause the fees to change.

> Resident question How long would it take and how much money would an individual family homeowner pay each month just to pay off the debt?

Mrs. Fowlke interpreted the question to mean "Go Dark" option.

Ms. Lewis said the UTOPIA debt would escalate over time. She said the cost would be between $10 and $15 per month per household. That did not include the cost of potential litigation. The cost would run 30 years.

> Resident question: Will at-home businesses be charged the business rate utility fee or the residential rate?

Mr. Ramage said a single-family home would be charged the single-family home rate.

> Resident question: Could Macquarie make a promise that the ubiquitous build could and would pay off the past UTOPIA debt?

Mr. Ramage said he would love to be able to say that for sure, but the answer was that he could not. It would come down to how much everyone would buy local and how many people would move over to buy premium services. That would entirely drive whether or not the debt would be paid down.

Ms. Lewis added that, under the proposed PPP model, the probability would increase that there would be revenues to pay down the debt, while under the “Muddling Along” scenario there would be no money to hook up new customers. She reiterated that the “Go Dark” scenario would also not have any revenues. She said the proposed model, with the premiums, would have the probability of paying down the debt.

Mrs. Fowlke asked for clarification that the basic fee would pay for basic service and for operating the system, then the up-sell charges would be divided between the City and Macquarie, and the City could use that money to pay down the debt.

Ms. Lewis confirmed that that was correct, adding that the money could also be used to reduce the utility fee.

Mayor Brunst said the $20 basic fee would be paid to the City through the utility bill. The transport fee would be paid to the ISP as a separate fee on a separate bill. He said he wanted people to understand that there would be two bills to be paid if they upgraded.

Mrs. Fowlke clarified that the transport rate was the up-sell.

Mr. Ramage clarified that the two bills would only apply to those who chose premium service. Most of the ISP fee would go back to the cities.

Mrs. Fowlke reiterated that if a customer did not up-sell, they would only pay the City.

> <u>Resident question:</u> If the City entered into the partnership and the citizens decided to protest the mandatory utility fee and the City was unable to pay the required payment, would other cities be required to pay for the shortfall of Orem’s availability payment?

Mr. Ramage said they would not. It was not a “joint and several liability” but only a “several liability,” so only each city would be responsible for its payment. If a city did not pay, Macquarie would “chase” them and not the remaining cities.

> <u>Resident question:</u> It has been stated that Macquarie expected there would be lawsuits with the proposal. If UTOPIA happened to be the sole entity being sued, where would the money come from that would be used to fight these impending lawsuits? If UTOPIA lost a lawsuit, where would the funds to pay the damages come from?

Mr. Ramage said he was not an attorney and that was an area that would need to be worked out in Milestone 2. There were some legal issues and, obviously, they would not proceed with the deal unless it was legal.

> <u>Resident question:</u> Who would be setting the standards for the last mile installation and inspection of the work? Who would pay for damages caused during the installation if they occurred?

Mr. Ramage said the standards would be arrived at with best practices. They would take a committee approach to formulating a set of standards appropriate for that installation. Macquarie would pay to fix any legitimate damages on the outside. If ISPs damaged the home, they would pay to fix it.

Mrs. Fowlke then went to questions that had been submitted at the meeting.

> Resident question: There has been a huge negative publicity campaign against the Macquarie deal. This was financed by people and companies with a vested interest in the defeat of the deal. Is Macquarie going to do anything to combat this?

Mr. Ramage said Macquarie had been trying to play nice, but it had not necessarily been getting them very far. He said he wished they had a big campaign and more friendly faces at the meetings sometimes, but the opposition had started pulling out big dollars. It was harder to get people who were for things to come out to meetings. Macquarie had just not been as aggressive or spent as much money. He called the campaign "slandering."

Ms. Lewis said it was important for the consumer to understand the figure of $1.8 billion the Utah Taxpayer's Association had used. She said she had not double-checked the exact amount, but she worked in the world of debt all the time, and their use of $1.8 billion would be very similar to buying a car. The price may have been $15,000, but if the buyer added in the interest, the gas every week, the tires, oil filters, and fuel filters and such, the buyer might say the cost was $110,000. The $1.8 billion included all of the operations, maintenance, and system refresh costs. She said the number was not wrong, but it was fair to let the people know what the number included.

Mr. Ramage said that the opponents were also looking at it in nominal dollars, totally ignoring inflation.

> Resident question: How would the proposal affect or benefit our schools?

Mr. Lee said that today there were approximately forty-one schools that were part of the UEN network that were connected to UTOPIA. UTOPIA was recently awarded a contract to add an additional fifteen. The option to go dark and shut down the connection to those schools would not be an option. At a minimum, they would have to keep the schools up and running.

Mr. Ramage said that there was a WiFi hotspot at the park near the library and kids would go there to do their homework because they did not have WiFi at home. He said that helping the kids at home to do their homework would also help the schools.

> Resident question: Are we having to pay to find cables already buried?

Mr. Ramage said the UTOPIA folks had done a great job of mapping out what was there and worked in coordination with utilities such as Rocky Mountain Power and specific utilities that knew how to find what was there. He said part of the cost would be the exploration of that, but he did not know a specific number on that.

> Mrs Fowlke read a question from a Comcast employee: Where did the information about Comcast raising its prices in UTOPIA areas come from?

Mrs. Fowlke said she had seen that day a bill received by her business partner, and the price had gone up. Mrs. Fowlke said she did not know if it was universal.

Mr. Ramage said he had received an email that very day that said the prices in all eleven UTOPIA cities, plus Spanish Fork and American Fork, would be going up "because they had upset the beast as well."

> Resident question: What are the legal ramifications of approving the merger and therefore the monthly fee? By forcing all residents to pay for it regardless of whether or not they use it or want it, it could be considered a tax established outside of Utah's Truth in Taxation laws.

Mrs. Fowlke said it would have been nice to have a City attorney there.

Mr. Davidson said he was not an attorney. There were mechanisms within Utah State law to allow residents to contest decisions made by the elected body. He did not believe that what they were talking about would be exempt from that.

Mayor Brunst said there were many legal things that would have to be examined. He said he had spoken with Nick Hann of Macquarie about the need to have outside counsel examine the contract. Mr. Hann had agreed. Mayor Brunst encouraged people to go to orem.org and read all 100 pages of the proposal.

Mr. Ramage added that some people have suggested the PPP might be deemed anti-trust. However, Comcast and CenturyLink would be able to use the system, so that was the answer to the anti-trust question.

> Resident question: The utility fee seems to be a major objection to this proposal. If the City Council rejected this plan, do they have an alternate plan to keep the fiber operative and pay down the current debt without going further into debt?

Mayor Brunst said the debt that was owed was owed, so, regardless, that would have to be paid. He reviewed the rate of increase required by the cities each year, capping out to about $4.8 million in 2040. Other cities had done it alone, such as Park City.

Mr. Ramage said the suggestion that a community did it for $60 million and was a similar size to Orem did not take into consideration all the differences. The cities had been trying to do it by themselves and had not done a great job. He said the cities the Mayor mentioned had had some success, but the risk had all been on the cities. With the Macquarie deal, the risk would be on Macquarie.

> Resident question: Please explain exactly why and how Orem City was responsible for UTOPIA's debt. Who was responsible for involving our city in the program that would cost so much with so little benefit to so many people?

Mrs. Fowlke said that was a question about the past. What they were facing now was a difficult and a complex issue. She said there were a lot of assumptions there.

Ms. Lewis reviewed the history of how UTOPIA and later UIA had come about.

Mayor Brunst said UTOPIA had never made money for UTOPIA. Nobody could know the future and business ideas were sometimes successful and sometimes they were not. The important thing was where the City was right now. They needed to figure out a way to work on the past debt and a way to try to make it work without adding additional debt to people who did not want to pay that debt. He said he did not think that anybody believed the City should go dark. There were different ways to treat the City's asset.

Mr. Ramage said that comparing Longmont, Colorado to Orem was correct in that they were roughly about the same size. He said that he had thought the mayor was comparing Longmont alone to all 11 cities, as he was comparing the entire $300 million, which was for the entire 11 cities.

Mayor Brunst said the $300 million was what Orem would pay over 30 years.

Mr. Ramage asked if the Mayor was comparing Orem's thirty-year cost to Longmont's upfront cost.

Mayor Brunst said that was correct. Longmont's refreshment and operational costs would come out of its revenue, so they were not paying that upfront.

Mr. Ramage said the Mayor would need to decrease the $300 million by the amount that the City would get back from the premium upgrades.

Mayor Brunst said that was a question that would need to be talked about.

> <u>Resident question:</u> What options has the City Council explored to mitigate the impact of the utility fee on indigent residents, waivers for low or fixed income, something similar to West Valley Ooma deal?

Mr. Ramage said that West Valley had made a deal with a company called Ooma for free telephone service. He said it had surprised Macquarie but was a good deal. West Valley would pick up the tab for the equipment and people would get a free basic phone which they could plug into their basic service and add zero dollars to their bill. People on fixed incomes who were paying $30-$40 for a landline could drop that price to $20.

Mrs. Fowlke said the participants were willing to stay to answer additional questions. She reminded the audience that it was not time for speeches. She asked the questioners to please state their names and addresses for the minutes. She asked them to state if they were directing their question to a particular person.

Time was then allotted for questions from the public.

Katy Patty asked, if Lindon or Payson decided in a month that they wanted to join back into Milestone 2, they would be let in, and if they would be treated differently. She said she was concerned because it sounded like some Orem City Council members were considering saying “no” next week for unspecified reasons and then trying to come back to the negotiation table in July.

Mr. Ramage said that a city would be treated differently. It was not a free option and no one wanted to waste their time. Opting in and opting out was not fair to anyone.

Mrs. Fowlke said they had clarified that the vote next week would not be about whether or not to do the deal, but whether or not to go to Phase 2 of the deal which would be another step in negotiations.

Brittany Lentz said several Council members had said they did not feel qualified to make a billion-dollar decision regarding technology because they were not experts. She said that seemed strange when, at the time they ran for office, they knew that UTOPIA would be the most prominent and divisive issue in the city. She asked why, if they felt unqualified, they hadn’t consulted with an independent technology expert during the last six months.

Mr. Seastrand said the issue was that this decision was huge and had a lot of responsibility. He said he believed they intended to say that they did want to get additional information and other options. He said that even though they were not technology experts they did recognize that they had the responsibility and would do the best they could.

Mr. Davidson said, in the defense of the City Council in this regard, that they had charged staff with reaching out to experts and trying to find the best minds throughout this country to help in the assessment of this proposal. The consultants that they had reached out to were currently involved in some way in the evaluation of this proposal, so they could not be third-party or objective participants in this process.

Mr. Ramage said Macquarie had retained a group called CPC which had prepared an independent market analysis for them. He said they had been hired by Macquarie and were not third party, but they were sharing it with the cities for a somewhat independent view of the merits of the deal.

Mrs. Fowlke asked about the independent analysis that the Utah Taxpayers Association had put out.

Mr. Ramage said that report had been a surprise to the gentleman who got his check from CenturyLink.

Drake Fackler said that he was on the $22 per month CenturyLink internet, and his bill last month was $97. He said he wanted to know what had been seriously considered and discussed as a city council to mitigate the monthly utility fee for Orem citizens. He said West Valley had a great deal with Ooma that would save $40 per resident. There were opportunities to waive fees for indigent or low-or fixed-income people. He said he felt like this information was being withheld and it was being used against the deal.

Mayor Brunst said that they had not looked into any phone deals with Ooma yet. He said they had spent many hours looking into alternatives for getting high-speed internet to the homes. He said they had been very diligent and had spent many, many hours doing this. He said they certainly could look into that. He had no opinion on that one way or the other.

Mr. Ramage said the Mayor and the Council should look at their existing ISPs who had demonstrated a willingness to address that issue themselves. He said he thought that they should be given a shot at that deal as well.

Sam Lentz, resident, said that he had presented an idea to the City Council on Tuesday and he would like a response to that. The City had enterprise funds for water and sewer. He thought it would be helpful if they set up a network enterprise fund, so those premium revenues could only be used either to pay off the existing UTOPIA debt or to reduce the utility fee. The Macquarie proposal would take away the operating loss and all that would be left would be the debt. He said the premium revenue would have paid that debt. He said that in the coming year there would be $3.4 million coming in to the budget to pay those things that would now go away. He wanted to know if the City Council could use that $3.4 million to cut the utility fee in half.

Mayor Brunst said he would be happy to have the rest of the Council answer these questions. He said they did not know what the transport fee would generate in the way of revenue. He said that, to give an idea, when UTOPIA was started it was stated that they would break even in three years and be profitable in five. He said that when UIA started, they stated that they would sign up 4,000 new homes per year. He said that they had been signing up 1,000 new homes per year. He said that UIA was profitable. He said that he did not know what the transport fee would generate and he did not know what the take rate would be. If they received money in, they would want to pay down debt.

Jim Fawcett directed a question to Mr. Ramage, saying that when the proposal was presented to Layton, Mr. Ramage had said there might be a price war between the ISPs, and they might have to fix a minimum rate. Mr. Fawcett said that, today, Mr. Ramage had said that Macquarie was not going to get involved in what they charged. Mr. Fawcett said he wanted to know if Macquarie had changed their position on that or if there would be a fixed rate for ISPs.

Mr. Ramage said Macquarie had considered the issue but the only firm decision was that Macquarie would not meddle in ISP pricing.

Will Matheson directed a question to Mayor Brunst, indicating the Mayor had mentioned several other proposals. Mr. Matheson said he preferred the Macquarie plan because he had a fundamental belief in free market competition that typically benefited the consumer. He asked if the Mayor would be giving priority to open systems, should they choose not to go with the Macquarie plan, or would they just choose the plan that was the cheapest.

Mayor Brunst said that would be dependent upon the Council and citizens to see what the proposals were. If he had his way, he would allow the citizens to vote on what was occurring rather than just Council. With UTOPIA, the citizens had never had the chance to vote. He said that in all the other cities, such as Chattanooga or Lafayette or Longmont, the citizens voted for a bond and then they financed it with that bond.

Bob Christensen directed his question to Laura Lewis. He said he wanted to compare what he paid for Triple Play with what she paid under UTOPIA.

Ms. Lewis said that her service provider was X-mission and that she had voice, video and data. She said she paid $157 per month for as robust a TV service as could be imagined. She said she had sports channels and others, had the ability to DVR, and had 100 Mbps up and down that had been absolutely flawless except during a power outage.

Lovina Roundy said she understood that there were four milestones and that the City had passed Milestone 1 and that next week they would be voting on Milestone 2. She wanted to know what Milestone 2 was and what exactly it committed Orem to and what exactly it committed Macquarie to.

Mr. Ramage reviewed the four milestones. He said there were interests aligned against them. He said they would try to get Milestone 2 done by the end of the calendar year and accelerate Milestone 3, which would be more of the same, and then Milestone 4 would be closing, hopefully by the end of the calendar year.

An unidentified audience member asked about the costs for the milestones.

Mr. Ramage said there were primarily legal and financial advisory costs to go through Milestone 2. He said they would recalibrate those as well, as they tried to accelerate things. He said it would be in the neighborhood of $1 million to $1.5 million across all the cities and a share of that would be allocated to the participating cities. Macquarie would not be making the proposal if they had to cover all the costs. The cities that proceeded all the way would not have to pay those costs. Macquarie had not been paid a dime for a year's worth of work so far; Macquarie was trying to be frugal. The obligation on the cities was to continue to participate and engage with Macquarie to work out the issues in a timely fashion and do their own diligence and facilitate the work that would need to be done on the engineering side.

Gary Bascom said Centerville and Lindon had withdrawn.

Mr. Ramage said Payson and Lindon had, but Centerville had not yet voted.

Mr. Bascom said the voters had elected the city fathers to get the city out of UTOPIA. He said he thought they were working on it.

Several members of the audience said that they had not elected them for that reason.

Mr. Bascom said he had. Macquarie had made a nice presentation. He asked why UTOPIA could not declare bankruptcy, so that the city could have the good program that Macquarie was presenting. He also asked why, if the program were so good, they would have to force the citizens to pay for it on their utility bills.

Ms. Lewis said, noting she was not an attorney, that the question had been looked at by legal counsel, and it was her understanding that Utah law did not allow interlocal cooperatives to declare bankruptcy. Cities and counties could. Perhaps, if all eleven cities declared bankruptcy, they could.

Phil McCabe questioned why Macquarie was the only company that had been given this opportunity, considering it was a thirty-year agreement.

Mr. Ramage said UTOPIA had been trying to dig itself out of this for a long time. Macquarie had gotten so far because they had made the best offer so far. Very sharp people, as well as Jamie, had investigated to see if Macquarie was for real, and they had come to the conclusion that the company was. Macquarie was the biggest infrastructure investor in the world and was putting real money at work. The company stood to lose it if they didn't do a good job. He said that was a very strong self-reinforcing mechanism. Macquarie had extremely qualified partners, including investors, and a developer. While he had not laid fiber before, several of the partners had.

Mrs. Fowlke asked Mr. Ramage if part of the problem was that they needed somebody with capital to pull it off.

Mr. Ramage said it would take a lot of money. The cities could keep "kicking the can down the road" with a little money but never enough to get it done, facing continuing operating deficits. Or they could get it all done at once and get scale. That would take a lot of money, and no one else had come to the table with that amount of money.

Mr. Lee said the telecommunications industry was a very small community. He said he had been in the industry for quite some time and had managed operations across thirty-five states with about 1.5 million subs. He had also managed a business unit for a national telecommunications company on a nationwide basis. There was a reason few municipal fiber systems were successful—because they were closed systems. UTOPIA was the first open architecture municipal fiber system anywhere in the U.S. The reason for that was there were few people with a lot of money partnered with the people with the right expertise to move them forward. Mr. Lee noted that one of Macquarie's partners was Alcatel-Lucent, the primary venders of equipment to Google, Chattanooga, Longmont and others. They would be the first to say the biggest problem was marrying the capital with the right telecommunications executives who had the experience of building 73,000 miles of fiber across the U.S. Macquarie had that.

Gary Brown said the reason the city had an open system was that it was forced by the Utah State Legislature in 2011 when they passed Title X, Chapter 18, which governed those kinds of consortia. He said that in 2000, AT&T and Quest and Comcast sent their lobbyists to completely block these kinds of things because it was competition. He said they did not get what they wanted in 2000, so in 2001 they went after the next best thing which was prohibiting closed systems from doing retail servicing. That was why there was a mess. He said by then UTOPIA and iProvo had started and suddenly the business model got swept out from under them. The legislature, in their wisdom, had sided with "private enterprise" which was really government guaranteed profitable monopolies, which both Comcast and CenturyLink were. They were scared because this would be, for the first time, genuine competition which was why prices would fall once they got started.

Mr. Lee said that they kept hearing about Longmont, Colorado. He said he happened to know the man—who was no longer working on the project—who had put together the proposal for Longmont. That city had a population of about 88,000 people, and they voted to bond $45.3 million to build a fiber infrastructure, with an anticipated payback over an eleven-year period, if they reached 35 percent penetration. It was a closed infrastructure, with no video on the network, and they were adding twenty-seven full-time employees, with their cost out of the operating revenue in anticipation that they were going to make money off the system. Mr. Lee said that took him back ten years and sounded like UTOPIA.

Tamara Barr said she was a current UTOPIA customer and had, within the last year, paid the $2,700 to get it installed to their house. She said she had not seen anything said about those who had paid the out-of-pocket expense.

Mr. Ramage said it would be addressed in Milestone 2, and there were two options. They wanted to make sure that people like Ms. Barr were compensated. One option would be to leave them as-is, with no utility fee, though that could be difficult to navigate with the UIA bond. They would like to get them onto the same program as everyone else, but if that were done, the utility fee would be rebated to the tune of the upfront payment.

Lincoln Spencer said he was a business owner. He said he started a business five years ago and he had to beg and plead with Comcast to install the last couple of hundred feet so his business could get Internet service. He said he would love for the proposal to go through, and he would love to see more competition and more options. He questioned what the option would be for a business like his if the City Council did not move forward with the Macquarie offer.

Mayor Brunst said that they were looking at other options. There were multiple providers, and it was a competitive business. He said there were people out there, and there would be more. He said they were looking for alternatives to work on the UTOPIA system. There was quite a bit of fiber within the city, and they were hoping to get UTOPIA fiber built out throughout Orem. He said he would like to see it done on a demand basis rather than on a forced basis.

Mr. Ramage said he would love to see the other options. Everyone had been looking at it for a long time, and there were no other options. He said the one other option was from First Digital, which was not an open system, and they would not show Macquarie their evidence.

Mayor Brunst said First Digital was an option that had come forward just in the last few weeks. He said the reason they were not opening up was that they did not have a nondisclosure agreement with UTOPIA. He said Macquarie did have a nondisclosure agreement, which had made it hard for the City to look at other options. He said that he thought First Digital would like to put forward their offer, but he thought that they had had a hard time doing that under the current business climate. He said First Digital was a company about the size of UTOPIA and was funded by the Boyer Company that owned the Gateway. He said they had been in business for about ten years.

Mr. Ramage said Macquaire had had a nondisclosure agreement from the beginning. They had clearly waived pretty much every single scrap of it, considering the details they had been giving out. He said the predevelopment agreement stipulated that Macquarie had an exclusive right to negotiate this deal over a certain period of time so that they did not waste their time. He said they had waived that right so Orem could look at the First Digital option, but Macquarie was still not able to look at what the First Digital option was. He said that First Digital could waive their nondisclosure agreement. It had nothing to do with Macquarie’s position.

Mayor Brunst said that his understanding was that they were working that agreement out with UTOPIA, but it had not been finished.

Mr. Ramage said it was up to them.

David Patty said that he could only get CenturyLink at his house. Nobody else could provide him with Internet, and he could not get UTOPIA. He said he would probably pay the fee to have it installed directly to his house, but that it was unavailable. He said it seemed like the City had one bird in their hands, which was Macquarie, and that there were two birds in the bush that they were looking for. He thought they should just be happy that they had a bird in their hand. He asked about the thirty-month ubiquitous build-out and when it would begin and end.

Mr. Ramage said that it would start and end as soon as possible. As soon as they signed, they would be building. He hoped it would be January 1, 2015. The thirty-month estimate would adjust, based on the number of cities that would participate. It would likely be shorter should fewer cities participate.

Mr. Lee said their partners and contractors would have already spent a significant amount of money prior to contract close. The design/build contractors and the construction crews were already talking to the local contractors, driving around the city, and doing an engineering assessment at a cost of about a quarter of a million dollars each. By the time the contract closed, those contractors would have spent $500,000 of their own money with no guarantees. They had already begun work on development and engineering. He said this was probably well in excess of $1 million worth of work being done well before the contract would close.

Logan Mosely said that, as for the demand idea, he had the demand but he could not get the fiber to his house even if he paid. He asked what the method would be for determining the minimum speeds and if it would change over the years.

Mr. Ramage said that 3 Mbps, in 30 years, would probably seem like dial-up did today. They had thought of different ways such as indexing it to average broadband.

Mrs. Fowlke asked if that would be part of Phase 2.

Mr. Ramage said Phase 2 would address exactly what the mechanism would look like. They expected it to be a periodic review of the marketplace. There was no downside for Macquarie directly to give a gig to everybody, but it would not work for the business model for the ISPs and there would be no up-side for the cities. He said it was a balance and they would address it on a periodic basis.

Ron King said school construction was always put up for a vote. He said that with Midtown Village had not been put up for a vote and neither had this. If it was put to a vote, the City Council would not have to shoulder all the responsibility if it went south. He wanted to know what was constitutional if they were spending something beyond the budget that had already been allotted.

Ms. Lewis said that she was not an attorney, but that she had worked in the field of public finance in Utah for going on twenty-six years. She had been well-trained and was well-aware of what had to go to the voters and what did not. She said that the gentleman was speaking of a general obligation vote. In a general obligation vote, the City would be saying that, no matter what, they would raise property taxes to whatever they would have to do to pay that debt. She said it was required under Utah law that if the City were going to enter into general obligation bonds and pledge their full faith and credit that it would have to go to a vote. Outside of that, in regard to debt obligations, cities, counties, special districts, etc., were allowed under Utah law to pledge system revenues or to pledge sales tax revenues. She said they had a lot of arrows in their quiver. Those bondholders could not come in and tell a city to raise the sales taxes to pay them back. UTOPIA bonds had the sales tax pledge, and that was all those bondholders could look to. The UIA bonds had the franchise fee pledged and that was all they could look to. She said that under Utah law, neither of those required a vote.

Mrs. Fowlke asked if it would be possible to set up a vote before June 26, 2014.

Mayor Brunst said that it would not. A vote would have to be on an item of legislation, and they were not talking about that.

Ms. Lewis said there was a very specific process in terms of how the Council could call a vote. She said she was working on such a time frame for another city.

John Reinhard said that he been trying to read the whole report, but that he thought he would rather go back and read Isaiah. He asked if the PPP would define the policy regarding ISPs or if someone else would define the policy. He wanted to know how much weight each agency within the PPP would have.

Mr. Lee said there was not a simple answer to the question as it delved into the financials around the ISP business model. The reality was that there would be a group, consisting of the cities, the equipment venders, the ISPs, the PPP, and the wholesaler. They would not be opposed to a citizen advisory group participating. The service level agreements that they would generate would have guarantees applied to all the ISPs. They would make sure the ISPs had trucks for calls, that they had customer service representatives, that they had technical support personnel, and that they had a robust billing system. Conduct on the network would be as indicated in the agreement. That would be determined by consensus and everybody would sign off on it and live and die by that document.

Arty Teemant asked what would happen to the $20 utility fee after 20 years.

Mr. Ramage said it would go away. The cities could keep charging it, but that would not be Macquarie’s business.

Ben Bergen asked what, in addition to subscriber revenue, the other economic benefits would the Phase 2 build–out provide, and if those benefits out-weigh the costs. He also asked about property values or attracting businesses to Orem.

Mr. Ramage said benefits included an emergency service gradient, connectivity, WiFi hot spots in parks, schools, smart grids, and all sorts of additional uses of the fiber.

Mr. Lee said multiple studies had shown that simply having the box on the side of a home, even if a person were not using it, would increase the value of a home by $3,500 to upwards of $5,500. He said if one home did not have the fiber and a neighbor had the same type of home but had the fiber, it would probably make a difference in which home a buyer would want to go for. As far as other benefits it would bring the community, he said he likened it to what the Internet did for Amazon vs. Barnes & Noble. He said that every person who had the fiber capacity in their home would all of a sudden have the opportunity, if not the desire, to become an entrepreneur, to work from home. Call centers, in one of the cities mentioned, were increasingly shutting down the office or the big corporate call center, because it was expensive, given the fact that all their employees had fiber to the home. He said it was virtually identical and no less reliable to the network that would be currently inside their office building. There would be a tremendous amount of economic opportunity for cities that had a ubiquitous build. He said if they did not have a ubiquitous build it would not be the same thing.

Robert Loveridge said that ten years ago he had been in favor of having fiber come and was still in favor of having fiber come, but he thought it had become a sour experience and had become a failed model. He wanted to know what would assure that the PPP would not become another UTOPIA. He had spent seven years trying to get fiber to his home. Promises had been made that he would have it within a year, but he still did not have it.

Mr. Ramage said that, fundamentally, it would come down to accountability. The cities had not really had accountability; UTOPIA had not had enough accountability to the cities, but they could fail and come back to the trough. He said it was not their money; it was public money. The proposal was a completely different accountability structure. Macquarie was putting up $300 million in capital at risk and guaranteeing on the back of that significant investment the delivery of the network.

Mr. Loveridge asked why Comcast and CenturyLink were in so much opposition to this. He said it was an oxymoron that they would be opposed to something that they would automatically benefit from. He question why, with 92 percent of the residents in Orem already using internet service, it would be mandatory that everybody had to pay. He also wanted to know, if the City Council were against this, and put out a request for proposal, would Macquarie participate in the RFP.

Mr. Lee said cable operators and the telecoms would not want this because about 15 years ago they had spent $10 billion in the U.S building up head ends, laying out fiber co-ax. The cable operators would have the public believe that cable was what was delivering their service, but he said that the back office infrastructure for cable operations was all fiber. Only the last mile was the copper component, and they were gradually building that out. He said he thought at some point in the distant future, the cable operators planned to be an all-fiber infrastructure. With that investment, they wanted to recover their cost. They were going to milk their existing infrastructure for as much as they could and for as long as they could until they recovered that amount and then gradually, as competitive pressures climbed—as was happening now—they would eventually begin to move off that conservative position and toward a fibercentric infrastructure. There was no reason why those companies could not currently operate on UTOPIA. The reason they were not participating and why they were loudly protesting was because they wanted to protect their captive audience. They liked it that way. CenturyLink and Comcast had made a great business case with 30 percent market share. If they joined UTOPIA, they would have to compete with the 18 other UTOPIA ISPs.

Marian Baxter said that, in good faith and with effort she had joined UTOPIA, when it was offered by M-Star. She said she had a bad experience. Today, on NPR Newsbreak, she heard that UVU had bought more acres of the Geneva project, and they were expanding their campus. She asked if UVU was on the UTOPIA system and how apartments got into this. She asked if there was a link about the upsell to the premium service and was there a way to help offset those in need.

Mrs. Fowlke said they had answered two or three of those questions already.

Mr. Ramage said UVU would be on the network and new builds would be brought onto the network. He said apartment buildings would take the fiber to the telecoms cabinet and then it would be up to the ISPs to wire up all the units if there were not existing wire, but there usually would be. That was part of the reason it was actually a discount for apartments. He had recommended strongly to the Council that they find a way to address the needs.

An unidentified audience member said she would be happy to be a recipient of the new technology, and Orem City would go on the map because they were like the Silicon Valley in Utah.

Val Hale, president of Chamber of Commerce in Utah Valley and resident of Orem, said this was obviously a very important and big issue for business. The chamber's public policy committee had voted unanimously to encourage the City Council to move forward into the next phase with Macquarie. He asked the Mayor and the City Council if they had a public relations plan in place to keep businesses in place should the PPP be rejected because he had spoken with several businesses who were awaiting the vote of this. They had said that if the vote were negative, they would be moving to Provo as soon as their leases were up. He said he thought there were far more than those, and he had only spoken to a few, especially the high tech business who needed it and wanted it. He said he thought it was kind of a generational thing. The Mayor had a problem on his hands if this were to fail because there were going to be a lot of businesses who would fly down to Google Fiber or wherever else they could get high-speed internet. It was a big problem.

Mayor Brunst said they very much appreciated businesses and the residents within Orem. He said he had actually heard the same argument on the other side that if residents were going to be forced to take this that they were going to move. He said he believed they wanted to have fiber in the community, but he thought it ought to be on a demand basis and not on a forced basis. If UTOPIA was to market a better way, they could get that fiber out there. He said he believed there were alternatives that were better than forcing debt on the citizens and forcing every citizen to have to take it whether they wanted it or not.

Mayor Brunst thanked Mrs. Fowlke for being the MC, and Mr. Ramage and Mr. Lee for being here.

The meeting adjourned at 9:20 p.m.

Donna R. Weaver, City Recorder

Approved: August 26, 2014